

Senate Study Bill 1013 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

A BILL FOR

1 An Act relating to donations made in a criminal proceeding.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 901.11 Donations — prohibited.

2 A monetary or property donation to any agency, organization,
3 or political subdivision of the state is prohibited as a part
4 of any deferred prosecution, dismissal, sentence, or other
5 penalty.

6 Sec. 2. Section 907.13, subsection 2, Code 2011, is amended
7 to read as follows:

8 2. The defendant's plan of community service, the comments
9 of the defendant's probation officer, and the comments of
10 the representative of the judicial district department of
11 correctional services responsible for the unpaid community
12 service program, shall be submitted promptly to the court.
13 The court shall promptly enter an order approving the plan or
14 modifying it. Compliance with the plan of community service
15 as approved or modified by the court shall be a condition of
16 the defendant's probation. The court thereafter may modify the
17 plan at any time upon the defendant's request, upon the request
18 of the judicial district department of correctional services,
19 or upon the court's own motion. ~~As an option for modification~~
20 ~~of a plan, the court may allow a defendant to complete some~~
21 ~~part or all of the defendant's community service obligation~~
22 ~~through the donation of property to a charitable organization~~
23 ~~other than a governmental subdivision. A donation of property~~
24 ~~to a charitable organization offered in satisfaction of some~~
25 ~~part or all of a community service obligation under this~~
26 ~~subsection is not a deductible contribution for the purposes of~~
27 ~~federal or state income taxes.~~

28 Sec. 3. Section 910.1, subsection 2, Code 2011, is amended
29 by striking the subsection.

30 Sec. 4. Section 910.1, subsection 4, Code 2011, is amended
31 to read as follows:

32 4. "Restitution" means payment of pecuniary damages to
33 a victim in an amount and in the manner provided by the
34 offender's plan of restitution. "Restitution" also includes
35 fines, penalties, and surcharges, ~~the contribution of funds to~~

1 ~~a local anticrime organization which provided assistance to law~~
2 ~~enforcement in an offender's case,~~ the payment of crime victim
3 compensation program reimbursements, payment of restitution
4 to public agencies pursuant to section 321J.2, subsection
5 13, paragraph "b", court costs including correctional fees
6 approved pursuant to section 356.7, court-appointed attorney
7 fees ordered pursuant to section 815.9, including the expense
8 of a public defender, and the performance of a public service
9 by an offender in an amount set by the court when the offender
10 cannot reasonably pay all or part of the court costs including
11 correctional fees approved pursuant to section 356.7, or
12 court-appointed attorney fees ordered pursuant to section
13 815.9, including the expense of a public defender.

14 Sec. 5. Section 910.2, Code 2011, is amended to read as
15 follows:

16 **910.2 Restitution or community service to be ordered by**
17 **sentencing court.**

18 1. In all criminal cases in which there is a plea of guilty,
19 verdict of guilty, or special verdict upon which a judgment
20 of conviction is rendered, the sentencing court shall order
21 that restitution be made by each offender to the victims of
22 the offender's criminal activities, to the clerk of court for
23 fines, penalties, surcharges, and, to the extent that the
24 offender is reasonably able to pay, for crime victim assistance
25 reimbursement, restitution to public agencies pursuant to
26 section 321J.2, subsection 13, paragraph "b", court costs
27 including correctional fees approved pursuant to section
28 356.7, court-appointed attorney fees ordered pursuant to
29 section 815.9, including the expense of a public defender, when
30 applicable, ~~contribution to a local anticrime organization,~~
31 or restitution to the medical assistance program pursuant to
32 chapter 249A for expenditures paid on behalf of the victim
33 resulting from the offender's criminal activities. However,
34 victims shall be paid in full before fines, penalties, and
35 surcharges, crime victim compensation program reimbursement,

1 public agencies, court costs including correctional fees
2 approved pursuant to section 356.7, court-appointed attorney
3 fees ordered pursuant to section 815.9, including the expenses
4 of a public defender, ~~contributions to a local anticrime~~
5 ~~organization~~, or the medical assistance program are paid. In
6 structuring a plan of restitution, the court shall provide
7 for payments in the following order of priority: victim,
8 fines, penalties, and surcharges, crime victim compensation
9 program reimbursement, public agencies, court costs including
10 correctional fees approved pursuant to section 356.7,
11 court-appointed attorney fees ordered pursuant to section
12 815.9, including the expense of a public defender, ~~contribution~~
13 ~~to a local anticrime organization~~, and the medical assistance
14 program.

15 2. When the offender is not reasonably able to pay all or a
16 part of the crime victim compensation program reimbursement,
17 public agency restitution, court costs including correctional
18 fees approved pursuant to section 356.7, court-appointed
19 attorney fees ordered pursuant to section 815.9, including the
20 expense of a public defender, ~~contribution to a local anticrime~~
21 ~~organization~~, or medical assistance program restitution, the
22 court may require the offender in lieu of that portion of
23 the crime victim compensation program reimbursement, public
24 agency restitution, court costs including correctional fees
25 approved pursuant to section 356.7, court-appointed attorney
26 fees ordered pursuant to section 815.9, including the expense
27 of a public defender, ~~contribution to a local anticrime~~
28 ~~organization~~, or medical assistance program restitution for
29 which the offender is not reasonably able to pay, to perform
30 a needed public service for a governmental agency or for a
31 private nonprofit agency which provides a service to the youth,
32 elderly, or poor of the community. When community service is
33 ordered, the court shall set a specific number of hours of
34 service to be performed by the offender which, for payment
35 of court-appointed attorney fees ordered pursuant to section

1 815.9, including the expenses of a public defender, shall be
2 approximately equivalent in value to those costs. The judicial
3 district department of correctional services shall provide for
4 the assignment of the offender to a public agency or private
5 nonprofit agency to perform the required service.

6 Sec. 6. Section 915.100, subsection 2, paragraph e, Code
7 2011, is amended to read as follows:

8 e. Victims shall be paid in full pursuant to an order
9 of restitution, before fines, penalties, surcharges, crime
10 victim compensation program reimbursement, public agency
11 reimbursement, court costs, correctional fees, court-appointed
12 attorney fees, or expenses of a public defender, ~~or~~
13 ~~contributions to local anticrime organizations are paid.~~

14 EXPLANATION

15 This bill relates to donations made in a criminal
16 proceeding. The bill prohibits any donation to an agency,
17 organization, or political subdivision of the state as part
18 of any deferred prosecution, dismissal, sentence, or other
19 penalty. The bill eliminates a provision allowing a criminal
20 defendant to make a donation in lieu of performing community
21 service. The bill also eliminates provisions allowing a
22 contribution by a criminal defendant to a local anticrime
23 organization as part of the offender's restitution plan.